

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH SESSION:
COUNCIL - PART I**

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council@isa.org.jm.

1. Name of Working Group:

President's Text

2. Name(s) of Delegation(s) making the proposal:

Federal Republic of Germany

3. Please indicate the relevant provision to which the textual proposal refers.

DR 31

Red text is in original draft; **blue text** indicates Germany's textual proposals

4. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the "track changes" function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.

Section 4

Other [activities in] ~~users of~~ the Marine Environment

Regulation 31 [President's Text]

Reasonable regard for other activities and infrastructure in the Marine Environment

1. Contractors shall, consistent with any relevant [Standards and taking into account any relevant] Guidelines, carry out [exploration and] exploitation [activities] under an exploitation contract with reasonable regard for other activities and ~~infrastructure~~ in the Marine Environment, in accordance with articles 87 and 147 of the Convention, [the Plan of Work] and the approved Environmental Management and Monitoring Plan, [Regional Environmental Management Plan] and Closure Plan and any applicable international rules and standards established by competent international organizations.

1.bis. Each Contractor shall exercise due diligence to ensure that it does not cause damage to submarine cables or pipelines or interfere with other activities ~~uses of the sea~~ in the Contract Area or surrounding Marine Environment. In particular, the Contractor shall:

(a.bis) identify current and planned uses or activities in the Marine Environment transiting, overlapping, or proximate to the Contract Area through publicly available data and resources and any other reasonable means, including but not limited to marine scientific

research, submarine cables or pipelines, fishing, navigation, activities related to marine genetic resources, and environmental protection measures and area-based management tools established or proposed by competent international organizations;

(a.ter) coordinate directly with the responsible organisations for, or operators of, these activities in the Marine Environment in order to reduce the risk of interference and damage to any structure or the Marine Environment;

(a) comply with the measures it agreed with the responsible organisations overseeing, or operators undertaking, other ~~activities in the Contract Area or the surrounding Marine Environment uses of the sea and of submarine cables and pipelines~~ to reduce the risk of damage to any in-service cables and pipelines; and

(b) ensure that any activities ~~actions~~ it conducts ~~takes~~ will not interfere with the route of a planned submarine cable or pipeline, recognized sea lanes essential to international navigation, or areas of intense fishing activity.

~~1.bis.alt. Each Contractor shall exercise due diligence to ensure that it does not interfere with other uses of the sea in the Contract Area. In particular, the Contractor shall:~~

~~(a) identify current and planned uses of the sea transiting or proximate to the Contract Area through publicly available data and resources and any other reasonable means [(b-1) — coordinate directly with the operators undertaking other uses of the sea in order to reduce the risk of interference with those uses as a result of the Contractor's activities].~~

~~(b) coordinate directly with the operators undertaking other uses of the sea in order to reduce the risk of interference with those uses as a result of the Contractor's activities.~~

~~(c) comply with the measures it agreed with the operators undertaking other uses of the sea to reduce the risk of damage to any in-service cables and pipelines; and~~

~~(d) ensure that any actions it takes will not interfere with the route of a planned submarine cable or pipeline].~~

2. ~~Alt.~~ To further the due and reasonable regard obligations in Articles 87 and 147 of the Convention, the ~~[Secretary-General]~~ ~~[Authority]~~ Authority, in conjunction with member States, shall facilitate early-stage coordination and cooperation between the Contractors and the proponents of the other activities in the marine environment, ~~[including through the identification of other marine users in the relevant Regional Environmental Management Plan, which shall be periodically updated]~~. Where the relevant other activities involve competent international, regional, or sectoral bodies, the Authority shall, in conjunction with member States, cooperate with such bodies to coordinate activities in the Marine Environment.

5. Please indicate the rationale for the proposal. [150-word limit]

- Germany strongly believes that DR 31 should not only focus on submarine cables and pipelines but also address other marine users and activities, which is indeed required by the Convention. For example, Art 147 specifically states that mining operations cannot occur “where interference may be caused to the use of recognized sea lanes essential to

international navigation or in areas of intense fishing activity.” Our proposed amendments are designed to broaden Art 31 in line with the Convention.

- Para 1.bis: Germany suggests that para 1.bis should cover all other marine activities and users, not only cables/pipelines. Indeed, it seems arbitrary and contrary to the Convention to afford cables and pipelines special treatment. While Germany supports the aim of protecting cables/pipelines from damage caused by mining activities, the same must be true for other activities. It is also important to not limit the focus solely on the Contract Area as that would exclude the water column, whereas the Convention clearly requires preventing interference with activities in the water column.
- Para 2: Germany considers it important that DR 31 not only addresses other private users, such as fishing vessels and owners of cables etc, but also public interests and spatial management by other competent international bodies. While ocean governance is fragmented, Articles 87 and 147 of the Convention seek to counter fragmentation by requiring due and reasonable regard. In addition, the BBNJ Agreement specifically aims to ensure more cooperation between governance bodies and DR 31 offers an opportunity for such cooperation. Germany considers it important that DR 31 commits the ISA to cooperating with other international bodies, such as RFMOs, the CBD, or future BBNJ institutions. Such cooperation will ensure that the Commission and Council know if a proposed mining area covers an EBSA or PSSA or other spatial management measure. It is critical for the Authority to have such information to make an informed decision about regional management.
- Germany also supports reference to REMPs in paragraphs 1 and 2, which will be a key tool for the ISA to identify other activities and users at a regional level.